

**IN THE UNITED STATES DISTRICT COURT
FOR THE DISTRICT OF NEW MEXICO**

TEKISHA JOHNSON,

Plaintiff,

vs.

No. CIV 08-1126 JH/LFG

ERIC ERICKSON,

Defendant .

**ORDER ADOPTING MAGISTRATE JUDGE'S ANALYSIS
AND RECOMMENDED DISPOSITION
AND DISMISSING ACTION WITH PREJUDICE**

THIS MATTER came before the Court on the Magistrate Judge's Analysis and Recommended Disposition filed August 31, 2009 [Doc. 23]. Plaintiff Tekisha Johnson ("Johnson") filed Objections [Doc. 24] on September 28, 2009. Although the Objections were not timely filed, the Court considered them in its *de novo* review. The Objections are overruled and the Court accepts the Analysis and Recommended Disposition.

Johnson asserts in her Objections that she has been subjected to double jeopardy, in that Defendant Eric Erickson ("Erickson") used the same incidents to seek probation revocation in two separate cases. As the Magistrate Judge noted, the principle of double jeopardy does not apply in this situation, as probation revocation is not a new prosecution; rather, it constitutes deferred punishment for crimes for which the probation violator was already convicted. United States v. Clark, 984 F.2d 319 (9th Cir. 1993).

Johnson continues to assert that Judge Neil Candelaria called Erickson “a liar” at the February 6, 2008 hearing and she requests that this Court obtain the original tape of that hearing, or else a sworn affidavit from Judge Candelaria, to back up her assertions. The Court declines this request, as resolution of the issue of what the judge may or may not have said is not material to the case. The facts of the case reveal no constitutional violation by Erickson.

IT IS THEREFORE ORDERED that Plaintiff’s Objections are overruled, and the Analysis and Recommended Disposition of the United States Magistrate Judge is adopted by the Court.

IT IS FURTHER ORDERED that the Complaint is hereby dismissed and this action is dismissed with prejudice.


UNITED STATES DISTRICT JUDGE